IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7401 OF 2005

Shri Vasant Dattu Anuse : Petitioner

V/s.

Shri Ishwara Sayappa Anuse & Ors. : Respondents

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Mr.Vijay Mane for the petitioner.

Mr.Pratap Patil for the respondents.

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CORAM : S.A. BOBDE, J.

October 25, 2005.

P.C.

1. Rule, returnable forthwith.

Mr.Patil for the respondents waives service of rule.

Heard by consent.

2. The present petition is against an interlocutory order refusing injunction to the petitioner-plaintiff. The petitioner-plaintiff had applied for an injunction to restrain the respondents from constructing a gober gas plant and a toilet adjacent to the petitioner's house. The exact distance of the proposed structure from the door

of the petitioner's house does not appear to be specified by the Commissioner in his report dated 4.11.2004. The learned counsel for the respondents states that the distance between the door of the petitioner and the proposed toilet can be inferred from the Commissioner's report. I am of view that such a matter cannot be left vague. Having regard to the circumstances and the inconvenience and nuisance that might be caused to the petitioner, I am of view that the appellate Court ought to have granted an injunction, pending the suit. Having regard to the nature of the controversy involved, the trial Court is directed to dispose of Regular Civil Suit no.322 of 2004 within a period of six months from the next date. There shall be an injunction as prayed for by the petitioner-plaintiff till then.

3. The rule is made absolute in the above terms.

Sd/-

S.A. BOBDE, J.